

REMARKS

Reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks is respectfully requested. Entry of the Amendment under Rule 116 is merited as it raises no new issues and requires no further search.

Claims 1-15 are pending in this application of which claims 1-5 are withdrawn from consideration. By this Amendment, claims 6 and 9 are amended.

Claims 6-7 and 15 stand rejected under 35 USC 103(a) over Ballantine et al. (US 6,488,778), Shao et al. (US 6,437,290), Wu (US 20030235990), and Bottomfield (US 6,506,312), Honma (US 5,981,966), and Chen et al. (US 6,646,235). Based upon the amendments to independent claims 6 and 9, amended and unamended claims are believed to be patentable over the applied art for the failure of the applied art to not only disclose, teach or suggest all of Applicants' recited claim features, but in addition fails to present any apparent reason to combine references or modify prior art to create the Applicants' allegedly obvious claim elements.

In response to the response filed November 23, 2009 that amended claims 6 and 9 to recite "adjusting the temperature of a ceramic heating element in the second substrate holder and adjusting the temperature of a ceramic heating element in the sample holder," the PTO alleges that "Ballantine properly teaches a second substrate holder (the frame) comprising at least one sample holder (the supports within the frame), wherein both components are formed of ceramic and disposed within temperature-modulated environment. As the ceramic frame transfers heat to the substrates, it properly constitutes a 'heating element.'" Applicants respectfully disagree.

Applicants submit that it is known by one of ordinary skill in the art that a frame made purely from a ceramic material would have insulating characteristics and would not by itself constitute a heating element. Nowhere do the applied references disclose, teach, or suggest wherein the second substrate holder and the sample holder each have a separate heating element disposed therein.

Applicants respectfully submit that the PTO incorrectly concludes that one of ordinary skill in the art would interpret the claimed "adjusting the temperature of a ceramic heating element in the second substrate holder and adjusting the temperature of a ceramic heating element in the sample holder," as merely having ceramic elements that get heated as the temperature of the environment is

modulated. Indeed, Applicants submit that one of ordinary skill in the art would interpret “a ceramic heating element in the second substrate holder,” and “a ceramic heating element in the sample holder,” as active heating elements disposed within the ceramics.

Furthermore, the PTO appears to assert that the substrates and the ceramic frames are both within a temperature-modulated environment that therefore the frames transfers heat to the substrates. Applicants submit that the PTO’s statement is illogical and offends the rules of thermodynamics that states that heat transfers from a hot material to a cold material. In the PTO’s hypothetical, the substrates and the frames are both within the same environment and therefore the substrates and the frames are at the same temperature. Accordingly, there can be no heat transfer from the frames to the substrate.

Notwithstanding the failure of the applied references to disclose the claimed heating elements claims 6 and 9 are amended to more clearly recite wherein the method includes “adjusting the temperature of a ceramic heating element in the second substrate holder and separately adjusting the temperature of another ceramic heating element in the sample holder,” (emphasis added).

Based upon the forgoing amendments and remarks, Applicants respectfully submit that amended claims 6 and 9, and claims 7-14 and 10-15 that depend therefrom, are allowable over the asserted combination of references.

Withdrawal of the rejections is respectfully requested.

Conclusion

All objections and rejections having been addressed, it is respectfully submitted that the present application should be in condition for allowance and a Notice to that effect is earnestly solicited.

Entry of the amendments is proper under 37 CFR §1.116 since the amendments: (a) place the application in condition for allowance (for the reasons discussed herein); (b) do not raise any new issue requiring further search and/or consideration (since the amendments amplify issues previously discussed throughout prosecution); and (c) place the application in better form for appeal, should an appeal be necessary. The amendments are necessary and were not earlier presented because they are made in response to arguments raised in the final rejection. Entry of the amendments is thus respectfully requested.

The Examiner is invited to telephone the undersigned, Applicants' attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,
LOWE HAUPTMAN HAM & BERNER, LLP

/Yoon S Ham/
Yoon S. Ham
Registration No. 45,307

Customer Number: 22429
1700 Diagonal Road, Suite 300
Alexandria, Virginia 22314
(703) 684-1111
(703) 518-5499 Facsimile
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YSH/ERM/jr